

### REMARKS

In the Final Office Action dated December 1, 2005, claims 22, 23, 27-29, 31 and 32 were allowed, and claims 1-19, 21, 34 and 36 were rejected. Of the rejected claims, claims 1, 11, 12 and 36 are independent while the others are dependent on one or another of the independent claims.

Independent claim 1 was rejected under 35 U.S.C. 103(a) as being unpatentable over Northrop (U.S. 6,460,483) in view of Simon (U.S. 4,840,143), and independent claims 11, 12 and 36 were rejected under 35 U.S.C. 102(b) as being anticipated by Northrop.

On February 2, 2006, I emailed to Examiner Nguyen, copies of the rejected independent claims, each with revisions to set forth with greater particularity, the invention and which are believed to avoid the functional language that was not considered in determining patentability (see paragraphs 10 and 11 of the Final Action). The proposed amendments shown in the informal email transmission of February 2 are essentially included in the amendments to the independent claims formally presented in this response.

Claim 1 as presently presented calls for a duct that extends to the outer surface of the top of the tank causing water from the duct to spill down essentially unrestricted over the outer surface of the tank and into a channel that surrounds the bottom portion of the dome-shaped tank. These features are nowhere shown or suggested in the Northrop patent. Contrary to what is suggested in the final rejection, Northrop does not disclose a system wherein water is discharged onto the top of a dome-shaped tank and allowed to flow essentially unrestricted into the channel. Rather, Northrop discharges the circulating water down a narrow ramp 24 that is not at the top of a dome-shaped surface, and the ramp restricts the flow in a narrow path to the forward container 22. Clearly, there is no dome-shaped surface where water flows essentially unrestricted downwardly to a channel or gutter as is described in the claim.

The Simon patent does not overcome the deficiencies of Northrop. There simply is no dome-shaped surface or any other surface that allows water to flow down to a channel and on which a pet can lap the water from a surface. Rather, in Simon, the solids (not liquid) from inside the slide container down ramp 30 into the dish 22.

The Examiner incorrectly attributes to Simon, a pet drinking fountain, while in actuality it is a device for feeding solids to animals. Moreover, there is no channel in Simon that would

channel fluid from the tank 50 (assuming it were in fact filled with liquid) – what the Examiner refers to located below reference character 28 in FIG. 3 is above the bottom edge of the container 50. Thus, the attributes of Simon attributed to the structure by the Examiner requires a wholly new design and function for the structure of that reference. No fluid flows down the outer surface of the container and the so-called channel is neither intended to carry water or capable of doing so.

Independent claims 11, 12 and 36 have also been amended to clearly define over the Northrop patent. Claim 11 as amended calls for the tank outer surface to slope downwardly about the periphery of the tank enabling water to flow down from the top about the periphery. There simply is no suggestion of such structure in Northrop and the manner in which the limitations are recited are not merely functional, but rather describe the physical characteristics of the device. The other limitations present in claim 11 similarly are not simply functional statements, but rather, describe the physical characteristics of the drinking fountain.

Claim 12 as amended calls for pump means having an inlet in the water chamber and an outlet at the top of the tank for discharging water from the chamber onto the upper portion of the dome-shaped top. That structure simply is not found in Northrop.

Claim 36 as amended calls for a duct extending upwardly to the external surface of the tank at the tank top discharging water from the chamber onto the top external surface of the dome-shaped tank causing water to flow down over a substantial portion of the external surface. Again, the recited structure is very different from the structure in Northrop wherein the water is discharged beneath the bottom of the tank and not the top of the external surface thereof, and further, the water is directed down a narrow internal chute to the dish 22.

The other active claims depend from one or another of the independent claims and are believed allowable at least for the reasons specifically recited in connection with the parent claims. In light of the foregoing, Applicant respectfully requests that all the remaining pending claims in the application be allowed. In the event the Examiner finds any objections, she is urged to call Applicant's undersigned attorney collect at the number given beneath his signature to discuss the case. The Applicant's attorney stands ready to conduct a personal interview with the Examiner at a mutually convenient time in order to expedite completion of the prosecution of this case.

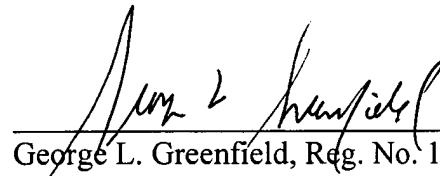
**CONCLUSION**

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,

By:

  
George L. Greenfield, Reg. No. 17,756  
Wolf, Greenfield & Sacks, P.C.  
600 Atlantic Avenue  
Boston, Massachusetts 02210-2206  
Telephone: (617) 646-8000

Docket No.: R0136.70017US00  
Date: February 23, 2006  
x03/01/06x